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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,825	03/19/2004	Paul C. Davidson	820802-1010	7112

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EXAMINER	
WHALEY, PABLO S	

ART UNIT	PAPER NUMBER
1631	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/804,825	DAVIDSON ET AL.	
	Examiner	Art Unit	
	Pablo Whaley	1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *132-265* is/are pending in the application.

4a) Of the above claim(s) *159, 160, 161, 244, 247, and 250-258* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *132-265* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-131 have been cancelled.

Claims 132-265 are newly introduced.

OBJECTIONS

It is noted that claims 244 and 247 are improper because a multiple dependent claim may not serve as a basis for any other multiple dependent claim, either directly or indirectly. Furthermore, claims 159, 160, 161, 244, 247, and 250-258 are improper because 35 U.S.C. 112 allows reference to only a particular claim. Accordingly, the claims 159, 160, 161, 244, 247, and 250-258 have been withdrawn from consideration. Applicant is advised that a further restriction may be required upon amendment of claims.

SPECIE ELECTION REQUIREMENT

This application contains claims directed to patentably distinct species of the claimed invention. The applicant is further required to make the following four specie elections for purposes of examination:

Specie A: Species of blood glucose tests are cited in claims 134 and 135, which are generally separately classified and published, and thus document undue search burden if searched

together. Thus applicants are required to select one type of blood glucose test from those listed in claims 134 and 135.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims Claim 132 is generic to the above species.

Specie B: Species of input data are cited in claims 139 and 140, which are obtained via distinct methods that are generally separately classified and published, and thus document undue search burden if searched together. Thus applicants are required to select one type of input data from those listed in claims 139 and 140.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 132 is generic to the above species.

Specie C: Species of "old data" are cited in claims 146-148, which are obtained via distinct methods that are generally separately classified and published, and thus document undue search burden if searched together. Thus applicants are required to select one type of "old data" from those listed in claims 146-148.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 132 is generic to the above species.

Specie D: Species of Basal Insulin are cited in claims 151-152, which are obtained via distinct mathematical processes, and thus document undue search burden if searched together. Thus applicants are required to select one type of "change" of Basal Insulin from those listed in claims 151-152.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 132 is generic to the above species.

Specie E: Species of Meal Insulin are cited in claims 153-154, which are obtained via distinct mathematical processes comprising distinct elements, and thus document undue search burden if searched together. Thus applicants are required to select one type of Meal Insulin from those listed in claims 153-154.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 152 is generic to the above species.

Specie F: Species of "new values" are cited in claims 167-169, which are obtained via distinct mathematical processes comprising distinct elements, and thus document undue search burden if searched together. Thus applicants are required to select one type of "new value" from those listed in claims 167-169.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 166 is generic to the above species.

Specie G: Species of embodiments are cited in claims 178-179 and 183-184, which are obtained via distinct physical embodiments, and thus document undue search burden if searched together. Thus applicants are required to select one type of "invention embodiment" from those listed in claims 178-179 and 183-184.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 177 and 182 are generic to the above species.

Specie H: Species of "multiplying factors" are cited in claims 193 and 196-197, which are directed to distinct mathematical processes comprising distinct elements, and thus document undue search burden if searched together. Thus applicants are required to select one type of "multiplying factors" from those listed in claims 193 and 196-197.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 192 is generic to the above species.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Whaley whose telephone number is (571)272-4425. The examiner can normally be reached on 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached at 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pablo S. Whaley

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Lori A. Clow
Patent Examiner
11/15/06